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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,229	07/18/2003	Stephen G. Kelly	A706WTN	2723

7590 09/27/2006

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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NOTICE OF NON-RESPONSIVE AMENDMENT

Status of the Claims

1. Amendment submitted April 4, 2006 is identical to the one submitted January 23, 2006 includes: originally elected invention, claims 1, 4, 6-8, 10 and 11 have been cancelled; claims 24-30 have been added; thus, claims 16-30 remain.
2. The Election filed October 19, 2004, elected invention, apparatus, claims 1-15 without traverse.

Response to Amendment

3. Newly submitted claims 24-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 24-30 are directed to non-elected invention, method of making, which has been determined to be distinct from the originally elected apparatus claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 24-30 have been withdrawn from consideration, along with claims 16-23, as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

4. The amendment filed on January 23, 2006 canceling all claims drawn to the elected invention, apparatus, and presenting only claims drawn to a non-elected invention, method of making, is non-responsive (MPEP 821.03). The remaining claims 16-30 are not readable on the elected invention because: the Restriction mailed September 27, 2004 indicated as follow:

Art Unit: 2814

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, Group I, drawn to apparatus, classified in class 257, subclass 79.
- II. Claims 16-23, Group II, drawn to method of making, classified in class 438, subclass 22.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the light emitting device (LED) can be made by other method including depositing a liquid form of the homogenous composition on the semiconductor junction.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of the previous **NOTICE OF NON-RESPONSIVE AMENDMENT** mailed March 29, 2006, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Art Unit: 2814

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh D. Mai whose telephone number is (571) 272-1710. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANH D. MAI
PRIMARY EXAMINER**